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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,289	02/11/2002	Fides P. Baldesberger	000364.00123	9828

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EXAMINER

KRAMER, DEAN J

ART UNIT PAPER NUMBER

3652

DATE MAILED: 06/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/049,289

Applicant(s)

BALDESBERGER, FIDES P.

Examiner

Dean J. Kramer

Art Unit

3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13, 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 14-23, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/28/04 has been entered.

### ***Claim Objections***

2. Claim 11 is objected to because of the following informalities: It appears that the word "and" should be inserted before the word —an—in line 2 of claim 11. Appropriate correction is required.

### ***Specification***

3. The disclosure is objected to because of the following informalities: In the first paragraph on page 9 of the specification, some of the numbers do not have a unit of measure associated therewith. For instance, in line 7, the number "90" should have a unit of measure inserted, and in line 10, the number "6" should have a unit of measure. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claims 14-21, 26, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "said first and second legs" as recited in the first lines of claims 14-17, 19-21, 26, and 27.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Seyfriedt in view of Kaufman.

Seyfriedt shows metal tweezers having a generally enlarged apex region relative to the leg thickness thereof but does not specifically disclose the type of metal from which it is manufactured nor closure pressure required to bring the free ends of the legs to a closed position. The Seyfriedt patent only broadly discloses that its tweezers be formed from a "resilient spring metal" (page 1, line 32).

Kaufman discloses an integrally formed pair of tweezers made from one of several mentioned materials including spring steel or aluminum.

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It would have been obvious to a person having ordinary skill in the art to dimension the apex of the Seyfriedt tweezers and form the tweezers out of sufficiently light metal, such as aluminum or spring steel as taught by Kaufman, so that it would be lighter in weight. The resulting aluminum or spring steel tweezers would certainly be "capable" of reverse engagement at its unconnected ends by an exerted pressure of *at least* 150g. as broadly as set forth in claim 22 of the instant application. It is pointed out that any pressure greater than 150 g. is considered "at least" 150 g..

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seyfriedt in view of Kaufman, as set forth above in regard to claim 22, and further in view of British Patent # 2,035,187.

The modified Seyfriedt tweezers were presented supra and would substantially contain all of the structural limitations as broadly as recited in claim 23 except for the legs having enlarged bulge portions along their length.

However, British Patent # 2,035,187 shows a pair of tweezers having a bulge or projection (16a,16b) extending inwardly from each leg so as to limit deformation of the tweezers upon manual compression thereof.

It would have been obvious to one of ordinary skill in the art to provide a bulge on each of the modified Seyfriedt legs similar to that shown in the British ('187) patent in order to limit deformation of the legs upon manual compression.


***Allowable Subject Matter***

7. Claims 11-13, 24, and 25 are allowed (upon correction of the minor objection to claim 11 as was set forth in section 2 above).
8. Claims 14-21, 26, and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
Dean J. Kramer  
Primary Examiner  
Art Unit 3652  
6/8/04

djk  
June 8, 2004